(Smt. Rahmat Vs. Baljendra Singh & ors.)
S.B.CIVIL MISC. APPEAL NO.1237/2006

Date of Order :: 30.08.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Nitin Trivedi, for the appellant

By way of this appeal, the claimant Smt. Rahmat seeks enhancement over the amount of Rs. 6,00,000/- awarded as compensation by the Tribunal on account of accidental death of her husband Dr. Ashraf Ali, 57 years in age.

While quantifying the compensation, the Tribunal has noticed the salary income of deceased while working as Managing Director of National Dairy Development Board as shown in his salary certificate Ex.29 at Rs. 20,276/-. The Tribunal has noticed the age of deceased at 57 years and with reference to Form No. 16 (Ex.28) has found his annual income at Rs. 2,43,418/- in the period 01.04.1999 to 31.03.2000 and has noticed the deductions stated in Form No.16 at Rs. 49,370/- and has further found income tax payment of Rs. 34,102/- and, therefore, has taken the net annual income of the deceased at Rs. 1,59,946/-. After deducting 1/3rd on personal expenditure of deceased, the Tribunal has taken multiplicand towards loss of contribution at Rs. 1,06,631/- and looking to the age of the deceased and sole dependency of the wife of the deceased, after applying the multiplier of 5 has

assessed pecuniary loss at Rs. 5,33,155/-. The Tribunal has further allowed 5,000/- towards funeral expenses, Rs. 10,000/- towards loss of consortium and Rs. 52,000/- towards property damage of the loss caused to the car because of the accident in question. On the basis of the calculation aforesaid, the Tribunal has made the award in the round figure of Rs. 6,00,000/- in favour of claimant-appellant and has allowed interest at the rate of 7.5% per annum from the date of filing of the claim application i.e. 31.01.2001.

Learned counsel for the claimant-appellant has contended that the Tribunal has been in error in making extra deductions from the salary income of the deceased and then applying the multiplier of 5 only whereas even as per Second Schedule, the multiplier of 8 ought to have been allowed. The submissions, in the overall circumstances of the case, do not merit acceptance.

The deceased has been shown in 57 years of age and was admittedly going to retire from the services a year after. Having regard to the source of income and future contingencies, even the average estimation as made by the Tribunal for the purpose of multiplicand remains rather on the higher side. The Tribunal has not made any additional deduction and has only subtracted the permissible deductions and has rightly assessed the net income of the deceased, yet

the multiplicand, in the context of the deceased and the claimant stands on higher side inasmuch as only 1/3rd has been deducted on the personal expenditure of the deceased whereas in view of the age of the deceased and the claimants and no other child being dependent, the likelihood of extra personal expenditure cannot be ruled out. The multiplier of 5 of course stands on lower side but when viewed with reference to the higher side multiplicand adopted by the Tribunal, the ultimate figure of pecuniary loss in the sum of Rs. 5,33,155/- definitely stands on higher side. The Tribunal has not restricted on other scores either and has also reasonably allowed interest at the rate of 7.5 % per annum from the date of filing of claim application.

The award in its totality cannot be said to be too low or grossly inadequate so as to warrant interference by the appellate Court and there appears no scope for upward revision in the amount of award.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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